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June 16, 2017

VIA ELECTRONIC FILING

Ms. Molly Dwyer, Clerk
Court of Appeals, Ninth Circuit
95 Seventh Street
P.O. Box 193939
San Francisco, CA 94119-3939

Re: Robert C. Munoz v. NLRB, Case No. 16-71915
Tarlton and Son, Inc. v. NLRB, Case No. 17-70532
NLRB v. Tarlton and Son, Inc., Case No. 17-70632

Dear Ms. Dwyer:

This letter is written pursuant to Federal Rule of Appellate Procedure 28(j).

In *Oliveira v. New Prime, Inc.*, 2017 U.S. App. LEXIS 8474 (1st Cir. Mass. May 12, 2017), the First Circuit held that the Federal Arbitration Act does not apply to truck drivers. The Court held that the FAA does not apply to such a transportation worker.

One of the issues in this case is whether Tarlton's arbitration policy applies to its truck driver. This new case confirms that it does not.

The Sixth Circuit decided *NLRB v. Alternative Entertainment, Inc.*, 2017 U.S. App. LEXIS 9272 (6th Cir. May 26, 2017), in which the Court upheld the Board's decisions in various cases, finding mandatory arbitration provisions that waive class or collective or group actions to be unlawful. The Court joined with the Seventh and this Circuit which have found these provisions to be unlawful under the National Labor Relations Act. We recognize that that issue is now pending before the Supreme Court, but the Sixth Circuit has now joined in with this Court's decision.

Sincerely,

/s/ David A. Rosenfeld

David A. Rosenfeld

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CERTIFICATE OF SERVICE

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

I hereby certify that on June 16, 2017, I electronically filed the foregoing **letter pursuant to Federal Rules of Appellate Procedure 28(j)** with the United States Court of Appeals, Ninth Circuit, by using the Court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Notice of Electronic Filing by the Court's CM/ECF system.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda, California, on June 16, 2017.

/s/ Karen Kempler

Karen Kempler